



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JULY 14, 2023

IN THE MATTER OF:

Appeal Board No. 628674

PRESENT: JUNE F. O'NEILL, MEMBER

In Appeal Board Nos. 628673 and 628674, the Commissioner of Labor appeals from the decisions of the Administrative Law Judge filed March 30, 2023, which overruled the initial determinations denying the claimant approval for career and related training under Labor Law § 599 (1); and denying the claimant

additional benefits, effective January 16, 2023, under Labor Law § 599 (2).

At the combined telephone conference hearing before the Administrative Law Judge, all parties were accorded a full opportunity to be heard and testimony was taken. There was an appearance by the claimant.

In Appeal Board No. 628673, we have reviewed the entire record and have considered the testimony and other evidence. It appears that no errors of fact or law have been made with respect to the issue of the denial of the claimant approval for career and related training under Labor Law § 599 (1). The

findings of fact and the opinion of the Administrative Law Judge, insofar as they concern the issue of the denial of the claimant approval for career and related training under Labor Law § 599 (1), are fully supported by the record

and, therefore, are adopted as the findings of fact and the opinion of the Board.

In Appeal Board No. 582788, the claimant did not submit the verification of training form within 10 days, as required, because the school where the claimant wanted training had been closed. The Board determined

this was good cause for the claimant's failure to fulfill this obligation in a timely manner and concluded that the claimant's training approval was not properly terminated. In this case, the claimant did not receive the correspondence, including the verification form, purportedly mailed to her on November 25, 2022. When the Department of Labor sent it to her again on or about January 23, 2023, the claimant returned the form within 10 days. As the claimant did not receive the form originally mailed on November 25, 2022, we conclude that she, too, had good cause for the failure to fulfill the obligation in a timely manner and her training approval was not properly terminated.

In Appeal Board No. 628674, based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: On July 15, 2022, the claimant filed a claim for unemployment insurance benefits effective July 11, 2022.

On November 14, 2022, the claimant applied for 599 Training for her Bachelor of Science in Early Childhood Education / Literacy from SUNY/Old Westbury College with attendance from January 25, 2023 through May 31, 2024 and an occupational goal of elementary school teacher.

The claimant received 26 weeks of benefits and her regular unemployment insurance benefits were exhausted as of the week ending January 15, 2023.

On January 26, 2023, a school official from SUNY/Old Westbury College prepared Form TC316.1C verifying the claimant was studying English in Multicultural Literature from August 31, 2022 through May 31, 2024 for a Bachelor's degree with 12 credits per semester. On January 27, 2023, the claimant returned the completed verification to the NYS Department of Labor. Subsequently, the claimant was told that she had to submit a new application because she had changed majors. On February 3, 2023, the claimant submitted a new 599 application for her new program.

OPINION: The credible evidence establishes that no additional benefits can be calculated for the claimant's training in a Bachelor's degree in English at SUNY Old Westbury because the claimant did not request approval under § 599

(2) until after her regular unemployment insurance benefits were exhausted on

January 15, 2023. The claimant's application for training approval for the different program was received by the NYS Department of Labor on February 3, 2023. In order to be considered for approval, the claimant's new 599 application had to be received before her regular benefits were exhausted.

Further, it is noted that the claimant's eligibility for additional training benefits based on her prior application for training in Early Childhood Education / Literacy from SUNY/Old Westbury College is beyond the scope of the initial determination before the Board.

DECISION: In Appeal Board No. 628673, the decision of the Administrative Law Judge is affirmed.

In Appeal Board No. 628674, the decision of the Administrative Law Judge is reversed.

In Appeal Board No. 628673, the initial determination, denying the claimant approval for career and related training under Labor Law § 599 (1), is overruled.

In Appeal Board No. 628674, the initial determination, denying the claimant additional benefits, effective January 16, 2023, under Labor Law § 599 (2), is sustained.

JUNE F. O'NEILL, MEMBER